

1976 WL 30475 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 26, 1976

***1 Re: Criminal Appearance Bonds and Recognizances**

Honorable James G. Fickling
Clerk of Court for Barnwell County
P. O. Box 723
Barnwell, SC 29812

Dear Mr. Fickling:

Attorney General McLeod read with interest your letter of April 14, 1976, and referred it to me for consideration and reply.

Your first inquiry is whether or not there is a fixed method or procedure for establishing a realistic maximum amount for which an individual can stand bond. Code Section 17-300 provides that an accused shall be released on his own recognizance pending trial ‘unless the court determines in its discretion that such a release will not reasonably assure the appearance of the person as required, or unreasonable danger to the community will result.’ In such case, the court may ‘(a) Require the execution of an appearance bond in a specified amount with good and sufficient surety or sureties approved by the court . . . (emphasis added).’ There is a method provided by statute for computing the qualifications of sureties in Charleston County, Code Section 17-303; however, there appears no such statutory procedure applicable to Barnwell County. Therefore, the determination of the qualification and sufficiency of an individual surety is a matter fully within the discretion of the court.

Your second inquiry concerns the proceedings in case of the forfeiture of a recognizance. The estreatment of an appearance bond or recognizance is controlled by Code Section 17-311. The judgment on such a forfeited recognizance may be enforced as provided by Code Sections 17-573 and 17-574, including the sale of the surety's real or personal property.

Your third inquiry concerns surety companies. In this regard, I would bring to your attention Code Sections 17-304, 10-23, and 37-601, et seq. Code Section 10-23 provides in pertinent part:

In all judicial proceedings, whenever it may become necessary for any party thereto to give a bond for any purpose, the bond of such party having thereon any surety company authorized to do business in this State may be accepted by any officer of court whose duty is to approve such bond, without other surety.

I hope this information has satisfactorily answered your inquiries. Please call upon this office if we may be of further assistance.

Very truly yours,

Wade S. Kolb, Jr.
Assistant Attorney General

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